

RESOLUTION NO 2008-05

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF SAN JUAN BAUTISTA
CALLING AND GIVING NOTICE OF THE HOLDING OF A
SPECIAL MUNICIPAL ELECTION TO BE HELD IN THE CITY
ON TUESDAY, JUNE 3, 2008,
FOR THE SUBMISSION TO THE VOTERS OF A QUESTION
PROPOSING THAT THE CURRENTLY EFFECTIVE
THREE QUARTERS OF ONE PERCENT (0.75%)
TRANSACTIONS AND USE TAX (A SALES AND USE TAX)
BE REPLACED AND INCREASED TO
ONE AND ONE QUARTER PERCENT (1.25%);
FINDING AND DECLARING A FISCAL EMERGENCY
IN ORDER TO PLACE A GENERAL PURPOSE TAX BALLOT MEASURE
BEFORE CITY VOTERS BY WAY OF A SPECIAL MUNICIPAL ELECTION;
AND REQUESTING CONSOLIDATION OF THE SPECIAL MUNICIPAL
ELECTION WITH THE STATEWIDE DIRECT PRIMARY ELECTION
TO BE HELD ON THE SAME DATE**

WHEREAS, under the provisions of the laws relating to general law cities in the State of California, a special municipal election may be held in the City on June 3, 2008; and

WHEREAS, the City Council desires to submit to the voters at the election a question proposing an increase in the currently effective three quarters of one percent (0.75%) Transactions and Use Tax to one and one quarter percent (1.25%); and

WHEREAS, over the past several years the City has experienced, and continues to experience, a revenue and funding crisis, as described below, that threatens the very existence of the City as a viable municipal entity; and

WHEREAS, this Council, upon advice of the City Manager, desires to place a revenue measure on a special election ballot, which if adopted, would assist the City in its efforts to increase revenues and to provide municipal services at a level reasonably expected by City residents; and

WHEREAS, pursuant to Article XIII C of the California State Constitution, the election for a general tax increase is required to be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by unanimous vote of the governing body; and

WHEREAS, the City is experiencing an existing and immediate funding crisis, which is the result of factors largely outside of its control, primarily resulting from unpredictable decreases in revenue from existing taxes and fees, increases in charges by the County of San Benito, and State takeaways of local revenue; and

WHEREAS, the City has taken significant steps to reduce its operational costs. The City has reduced its staffing levels in Public Works Department and in the administrative components

of City Hall. The City Planning Department has been reduced to operating only one day per week and the operation of the Building Department has reduced to an on-call basis. The single paid position within the City Fire Department has been eliminated and the general fund allocation for law enforcement has been reduced by 75%; and

WHEREAS, the hours during which City Hall is open to the public have been significantly reduced and staff and the hours of operation for the City's Library have been significantly reduced and the inter-city library loan program and free use of the City's library for non-residents has been eliminated; and

WHEREAS, the City motor vehicle fleet has been reduced from five vehicles to two vehicles; and

WHEREAS, beginning in 2007, City departments other than Fire are closed to the public during a part of each day. The City's various departments, including the administrative components of City Hall, have also delayed filling key staff positions. In doing so, each of these departments has further jeopardized its ability to provide the minimum level of services required for the citizens of San Juan Bautista; and

WHEREAS, the City has recently experienced the loss of its single largest sales tax generating business; and

WHEREAS, the residents of the City of San Juan Bautista have expressed their desire to avoid further cuts in essential city services; and

WHEREAS, there has resulted a continual reduction of the City's General Fund reserves. Should this continue, the City will deplete all available financial resources by Fiscal Year 2009-2010 and will have no other available funding to maintain the staffing and services under the City's General Fund Operating Budget or to meet emergency or future capital facilities needs; and

WHEREAS, because of changes in State law, particularly the approval of Propositions 62 and 218, the City has very few means available for increasing General Fund revenue. The marginal increases in the City's property and sales and use tax revenues have been inadequate to meet the level of funding needed to restore public services to their required operating levels; and

WHEREAS, absent a new source of General Fund revenue, the City will have no ability to restore adequate service levels. Despite the dramatic decreases in services and staffing, as well as the use of the City's existing reserves, the 2007-08 Budget was balanced only by removing all non-health, welfare and safety related services and expenditures, thereby creating a situation where the City is presently unable to adequately repair its buildings, roads, sidewalks and parks; and

WHEREAS, unless staff and service levels are at least partially restored, public facilities and property will not be properly maintained, public safety standards will degrade, crime and violence will increase, the City's youth will not have adequate and safe educational and recreational opportunities, businesses and families will be discouraged from moving to or remaining in San Juan Bautista, and the health, safety, and welfare of the residents of San Juan

Bautista will be endangered; and

WHEREAS, the City's fiscal crisis herein described is of sufficient gravity and severity that the City must at the earliest feasible juncture propose revenue enhancement measures to the electorate in order to maintain, to the extent possible, the minimal level of governmental services necessary to protect and preserve the health and general welfare of the City's residents, workers and visitors; and

WHEREAS, because of the threat to the public health, safety, and welfare, the City Council of the City of San Juan Bautista now hereby unanimously finds a fiscal emergency, as the term "emergency" is used in Article XIII C, section 2(b) of the California Constitution, now exists in the City of San Juan Bautista justifying the call for a special municipal election for June 3, 2008, in order for the City to propose, and City voters to consider, the adoption of an increase in the Transactions and Use Tax (also known as a Sales Tax), a general tax, intended to address that emergency by ensuring that the City has the resources necessary to preserve the public health, safety, and welfare; and

WHEREAS, pursuant to CEQA Guidelines an ordinance which would impose a Transactions and Use Tax is not considered a "project" because it will not result in a direct or reasonably foreseeable indirect physical change in the environment nor does it involve any commitment to any specific project which may result in a potentially significant physical impact on the environment; and

WHEREAS, the identified emergency necessitates that the City Council submit a Transactions and Use Tax measure, all proceeds from said tax to be utilized for general governmental purposes, to the voters of San Juan Bautista at the June 3, 2008, statewide direct primary election, even though such an election would not be consolidated with a general election for a member or members of the Council;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA DOES RESOLVE, FIND, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. Pursuant to the requirements of the laws of the State of California relating to General Law Cities and Elections Code Sections 9222 and 12001, this Council hereby orders and calls a special municipal election to be held in the City of San Juan Bautista, California, on Tuesday, June 3, 2008, this special election to be consolidated with the statewide direct primary election to be held on said date, for the purpose of submitting to the qualified electors a measure hereinafter described and set out proposing that the currently effective three quarters of one percent (0.75%) Transactions and Use Tax (a sales tax) be replaced and increased to one and one quarter percent (1.25%), Measure U, as hereinafter described and set out.

SECTION 2. Because of the threat to the public health, safety, and welfare, as set forth in the foregoing recitals, the City Council of the City of San Juan Bautista now hereby unanimously finds and declares a fiscal emergency, as the term "emergency" is used in Article XIII C, section 2(b) of the California Constitution, in the City of San Juan Bautista justifying the call for a special municipal election for June 3, 2008, in order for the City to propose, and City voters to consider, the adoption of a Transactions and Use Tax (also known as a Sales and Use

Tax), as authorized by Revenue and Taxation Code §7285.9, intended to address that emergency by ensuring that the City has the resources necessary to preserve the public health, safety, and welfare.

SECTION 3. The measure (to be labeled “Measure U”) to be placed on the ballot for the special municipal election hereby called shall be printed in the ballots used at said election in substantially the following form:

Shall the existing three-quarter of one percent (0.75%) City of San Juan Bautista General Fund Transactions and Use Tax approved in 2005 be replaced and increased with a one and one quarter percent (1.25%) General Fund Transactions and Use Tax (also know as a Sales and Use Tax), to be utilized for local general governmental purposes, the use by City of all revenue resulting from such increase to be subject to recommendations by an advisory panel to be appointed by the City Council?

The words “Yes” and “No” shall be printed on the ballots so the qualified electors may express their choice on Measures D. The complete text of an ordinance in the form to be included in the election materials provided to qualified electors is attached hereto and marked Attachment 1.

SECTION 4. The ballots to be used at the election shall be in form and content as required by law.

SECTION 5. Pursuant to Elections Code Section 10403 the Board of Supervisors of the County of San Benito is hereby requested to consent and agree to the consolidation of the special municipal election called herein, with the Statewide Direct Primary Election on Tuesday, June 3, 2008, for the purpose of the submittal of the measure described and set out herein. The County Election Department is authorized to canvass the returns of the special municipal election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used. Pursuant to Elections Code Section 10002, the Board of Supervisors is requested to issue instructions to the County Election Department to take any and all steps necessary for the holding of the consolidated election, including but not limited to the following:

- A. Precinct consolidation, establishment of polling places, securing election officers, preparing and mailing notices of appointment and publication of precinct officers and polling places.
- B. Typesetting and printing sample ballots, which includes polling place notifications, ballot arguments, statements of candidate’s qualifications and mailing to registered voters.
- C. Printing of official ballots.
- D. Purchasing precinct supplies and absent voter supplies.
- E. Providing for absentee voting in the County Registrar’s Office.

- F. Delivery of voting booths, ballots, ballot boxes, and precinct supplies to precincts/election officers.
- G. Electronic and/or hand tabulation of votes.
- H. Certifying the return and result of the election to the City Clerk.
- I. All things necessary or incidental to the above in accordance with California election law in effect at the time of the election or other Functions as may be requested from time to time by the City.

SECTION 6. The City Clerk is authorized, instructed and directed to contract with the County of San Benito for the administration of the special election by the County, and the County Elections Department is authorized to bill the City, on a pro-rated basis, for any and all costs associated with the special election, said election subject to all required procedures of the Elections Code and other applicable law.

SECTION 7. The polls for the election shall be open at seven o'clock a.m. of the day of the election and shall remain open continuously from that time until eight o'clock p.m. of the same day when the polls shall be closed, except as provided in §14401 of the Elections Code of the State of California.

SECTION 8. The notice of the time and place of holding the election hereby is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law, a Notice of Election; and to make such publications regarding the election as are required by law.

SECTION 9. Written arguments, not to exceed three hundred (300) words, in favor or opposition to the measures described herein, may be submitted to the City Manager no later than eleven a.m. on March 4, 2008. Rebuttal arguments, not to exceed two hundred and fifty (250) words, to arguments in favor or opposition to said measure may be submitted to the City Clerk no later than eleven a.m. on March 14, 2008.

SECTION 10. The City Attorney shall prepare impartial analyses of Measure U not to exceed 500 words in length showing the effect of the measure on the existing law and the operation the measure. The impartial analyses shall be filed by eleven a.m. on March 14, 2008.

SECTION 11. Pursuant to Elections Code §9282 the Mayor is hereby authorized to prepare a written argument, not to exceed 250 words in length, in favor of Measure U on behalf of the City Council. At the Mayor's discretion, the argument may also be signed by bona fide associations or by individual voters who are eligible to vote.

SECTION 12. The City Council shall meet following the election, within the time required by law, to canvass the returns and to declare the results of the election.

SECTION 13. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions, and shall make a minute of the passage and adoption thereof in the minutes of the meeting at which it is adopted. The City Clerk is also hereby directed to file a certified copy of this resolution with the Board of Supervisors

and the County Election Department of the County of San Benito.

THE FOREGOING RESOLUTION was passed and adopted at an adjourned regular meeting of the San Juan Bautista City Council on the 23rd day of February, 2008, by unanimous vote:

AYES: Dias, Edge, Hill, Paradise, Laverone

NOES: None

ABSENT: None

ABSTAIN: None

George Dias III, Mayor

ATTEST:

Trish Paetz, City Clerk

APPROVED AS TO FORM:

George Thacher, City Attorney

Attachment 1

ORDINANCE NO. 2008-

**AN ORDINANCE OF THE CITY OF SAN JUAN BAUTISTA REPEALING
THE CURRENTLY EFFECTIVE THREE QUARTERS OF ONE PERCENT (0.75%)
TRANSACTIONS AND USE TAX (A SALES AND USE TAX)
AND REPLACING AND INCREASING THAT TAX WITH A
ONE AND ONE QUARTER PERCENT (1.25%) TRANSACTIONS AND USE TAX
TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION
AND SUBJECT TO VOTER APPROVAL**

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BE IT ORDAINED BY THE VOTERS OF THE CITY OF SAN JUAN BAUTISTA:

SECTION 1. FINDINGS. The voters of the City of San Juan Bautista hereby find as follows:

- a. The City is experiencing an existing and immediate funding crisis, which is the result of factors largely outside of its control, primarily resulting from unpredictable decreases in revenue from existing taxes and fees, increases in charges by the County of San Benito, and State takeaways of local revenue.
- b. The City has taken significant steps to reduce its operational costs. The City has reduced its staffing levels in Public Works Department and in the administrative components of City Hall. The City Planning Department has been reduced to operating only one day per week and the operation of the Building Department has reduced to an on-call basis. The single paid position within the City Fire Department has been eliminated. The hours during which City Hall is open to the public have been significantly reduced, the hours of operation for the City's Library have been significantly reduced, and the inter-city library loan program and free use of the City's library for non-residents has been eliminated. The City motor vehicle fleet has been reduced from five vehicles to two vehicles.
- c. Beginning in 2007, City departments other than Fire are closed to the public during a part of each day. The City's various departments, including the administrative components of City Hall, Finance, Planning, Building, Code Enforcement, and Engineering have also delayed filling key staff positions. In doing so, each of these departments has further jeopardized its ability to provide the minimum level of services required for the citizens of San Juan Bautista.
- d. There has resulted in a continual reduction of the City's General Fund reserves. Should this practice continue, the City will deplete all available financial resources by Fiscal Year 2009-2010 and will have no other available funding to maintain the staffing and services under the City's General Fund Operating Budget or to meet emergency or future capital facilities needs.
- e. Because of changes in State law, particularly the approval of Propositions 62 and 218, the City has very few means available for increasing General Fund revenue. The marginal increases in the City's property and sales and use taxes have been inadequate to meet the level of funding needed to restore public services to their required operating levels.

f. Absent a new source of General Fund revenue, the City will have no ability to restore adequate service levels. Despite the dramatic decreases in services and staffing, as well as the use of the City's existing reserves, the 2007-08 Budget was balanced only by removing all non-health, welfare and safety related services and expenditures, thereby creating a situation where the City is presently unable to adequately repair its buildings, roads, sidewalks and parks.

g. Unless staff and service levels are at least partially restored, public facilities and property will not be properly maintained, public safety standards will degrade, crime and violence will increase, the City's youth will not have adequate and safe educational and recreational opportunities, businesses and families will be discouraged from moving to or remaining in San Juan Bautista, and the health, safety, and welfare of the residents of San Juan Bautista will be endangered.

SECTION 2. AMENDMENT OF CODE.

On and after the Operative Date of this Ordinance, current Article 2 of Chapter 3-2 of the San Juan Bautista Municipal Code is hereby REPEALED, and new Article 2 of Chapter 3-2 is ADDED to the Municipal Code to read as follows:

3-2-175 **Title.** The ordinance codified in this article (hereafter in this article, "ordinance" or "this ordinance") shall be known as the "City of San Juan Bautista Replacement Transactions and Use Tax Ordinance." This ordinance shall be applicable in the incorporated territory of the City.

3-2-176 **Definitions.** As used in this ordinance, "City" means the City of San Juan Bautista.

3-2-177 **Operative Date.** "Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance and is the first day that the tax is imposed and collected. The Operative Date shall be October 1, 2008, unless a later Operative Date becomes effective under the provisions of Section 3-2-179 below.

3-2-178 **Purpose.** This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

(A) To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

(B) To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

(C) To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

(D) To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimizing the cost of collecting the transactions and use taxes, and at the same time, minimizing the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

3-2-179 **Contract with State.** Prior to the Operative Date, the City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the State Board of Equalization prior to the Operative Date, it shall nevertheless so contract and in such a case the Operative Date shall be the first day of the first calendar quarter following the execution of such a contract.

3-2-180 **Transactions Tax Rate.** For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of one and one quarter percent (1.25%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the Operative Date of this ordinance.

3-2-181 **Place of Sale.** For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

3-2-182 **Use Tax Rate.** An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the Operative Date of this ordinance for storage, use or other consumption in said territory at the rate one and one quarter percent (1.25%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

3-2-183 **Adoption of Provisions of State Law.** Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

3-2-184 **Limitations on Adoption of State Law and Collection of Use Taxes.** In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

(A) Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:

(1) The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;

(2) The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Ordinance.

(3) In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

(a) Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

(b) Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

(4) In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

(B) The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

3-2-185 **Permit Not Required.** If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

3-2-186 **Exemptions and Exclusions.**

(A) There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

(B) There are exempted from the computation of the amount of transactions

tax the gross receipts from:

(1) Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

(2) Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:

(a) With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

(b) With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

(3) The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the Operative Date of this ordinance.

(4) A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the Operative Date of this ordinance.

(5) For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

(C) There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this City of tangible personal property:

(1) The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

(2) Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of

public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

(3) If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the Operative Date of this ordinance.

(4) If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the Operative Date of this ordinance.

(5) For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

(6) Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

(7) "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

(D) Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

3-2-187 Permissible Uses.

(A) The proceeds of this tax received by the City from the State Board of Equalization shall be deposited in the City's general fund and may be used for any legal municipal purpose including, without limitation, police, fire safety, graffiti removal, gang intervention, school resource officer, and street and park maintenance.

(B) No later than September 16, 2008, the City Council shall appoint a five person citizen advisory panel that shall meet no less than every six months to consider and make recommendations to the City Council regarding the annual budgeting and expenditure of an amount equaling forty percent (40%) of the proceeds of this tax received from the State Board of Equalization. The selection of panel members and filling of vacancies on the panel shall be pursuant to procedures established by the City Council at a regular meeting following the effective date of this ordinance. Modifications of such procedures shall as well be made at regular meetings of the City Council. The City Council may direct the City Treasurer to meet with the panel, in a non-voting capacity, to advise as requested and necessary.

3-2-188 **Amendments.** All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

3-2-189 **Enjoining Collection Forbidden.** No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

SECTION 3. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION 4. EFFECTIVE DATE. This ordinance, following its adoption by no less than four affirmative votes of the City Council, shall become effective upon the approval of the tax imposed hereunder by a majority of the voters of the City voting thereon at the election to be held on June 3, 2008. The "Operative Date" of the tax imposed hereunder shall be as provided in Section 3-2-177.

THE FOREGOING ORDINANCE was first read at a duly noticed meeting of the SAN JUAN BAUTISTA CITY COUNCIL on the 19th day of February, 2008, and was passed and adopted at a regular meeting of the SAN JUAN BAUTISTA CITY COUNCIL on the ____ day of _____, 2008, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

George Dias III, Mayor

ATTEST:

Trish Paetz, Deputy City Clerk

APPROVED AS TO FORM:

George Thacher, City Attorney